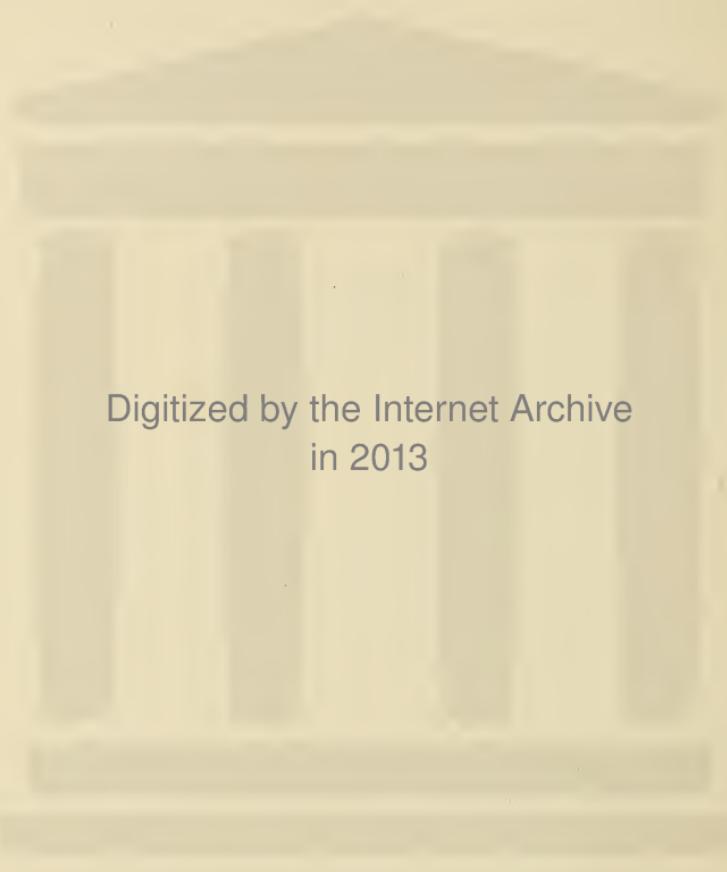


FOURTEENTH REPORT
ON
PUBLIC RECORDS
1902



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. . . . No. 52.

FOURTEENTH REPORT

ON THE

CUSTODY AND CONDITION

OF THE

PUBLIC RECORDS

OF

PARISHES, TOWNS, AND COUNTIES.



BY ROBERT T. SWAN, COMMISSIONER.



BOSTON:

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1902.



Commonwealth of Massachusetts.

OFFICE OF THE COMMISSIONER OF PUBLIC RECORDS,
STATE HOUSE, BOSTON, Jan. 1, 1902.

To the Honorable Senate and House of Representatives.

I have the honor to submit the tenth report of this commission, being the fourteenth in the series of reports on the public records.

The act providing for the appointment of a Commissioner of Public Records requires that the commissioner shall report to the Legislature in each year the results of his labors, with such recommendations and suggestions as may seem important for the safety and benefit of the records. The results of his labors cannot be summed up annually, as several years of labor have been required to bring about some of the results, but it can be stated generally that there has been a great improvement in everything relating to the safety and benefit of the records. Some detailed results, and some recommendations, are presented under their respective headings.

TERMS OF CITY CLERKS.

The statement that several years of labor are required to bring about certain results is verified by the fact that it has taken eleven years to make it possible for cities to elect their clerks for terms of three years. That twenty-seven of the thirty-three cities have accepted the act authorizing such elections, by a total majority of nearly two to one, is a most important result, as it will check a tendency, which was growing, toward making the office political, to be contested annually, and will serve notice on those who would bring the *county* recording officers into politics that sentiment is against it. The commissioner has always urged that the cities and towns be put upon the same basis as the counties, and that the election of the re-

cording officers in the cities and towns for long terms be required, not merely authorized, but the popular approval of the act of authorization may have a better result than if the Legislature alone had passed upon it, and the cities which have rejected it may come into line with popular opinion.

The following are the only cities which rejected the act: Beverly, Lowell, Marlborough, Northampton, Quincy, and Waltham.

It is greatly to be regretted that Quincy and Lowell are among the number. Under the system, peculiar to Quincy, of having the clerk appointed by the mayor, the office has been purely political, changing with the party. In the twelve years during which Quincy has been a city there have been four clerks. In Lowell there is usually a contest. Between the years 1882, when the clerk who had held the office thirteen years died, and 1895, there were five changes, with no election in 1893, when the incumbent held over. On the other hand, it is a satisfaction that Lawrence and Pittsfield have accepted the act. The offices there have been political, with frequent changes and bitter contests, complicated with other municipal matters, and the clerks have never felt sure of continuing in office long enough to do all they might desire for the benefit of their records.

TERMS OF TOWN CLERKS.

The advocacy of three-year terms for town clerks has at last resulted in the adoption by the Legislature of the soundness of the arguments in favor of the principle by its authorizing such terms, but the act relating to the matter has thus far received little attention. Whereas the act relating to cities required a vote upon its acceptance, the towns are to vote if they see fit, and few citizens are enough interested to ask for action. The clerks naturally will not suggest it, although knowing the benefit to be derived. Then, too, the act contained a provision that the clerk may be chosen "clerk of such offices, boards, and departments of the town as the town may determine by vote." This is not only superfluous, as the several boards may choose the clerk or whomsoever they please clerk of their boards, but it has been construed to mean that a clerk chosen for three years under the act *must* be clerk of the boards, and that is not

always practicable. Grafton was the first town to accept the act.

Arguments in favor of long terms for the clerks have so often been set forth during the past eleven years that it does not seem worth while to repeat them, but it is more important that the term should be a long one in the towns than in the cities, for two reasons. In the cities the records have an abiding place, which is the clerk's office. In the towns the clerk's records go from place to place with each change of clerks, with unnecessary wear and liability of loss, and no suitable permanent place is provided. In the cities the clerks have assistants conversant with the work and competent to keep up the routine, while in the towns no one but the clerk has knowledge of the records or duties.

The passage of the following act offered last year is again urged :—

AN ACT FIXING THE TERMS OF OFFICE OF TOWN CLERKS.

SECTION 1. In the year nineteen hundred and three, and every third year thereafter, there shall be elected, by the voters at the annual meeting in each town, a town clerk, to hold his office for three years from the day of his election.

SECTION 2. Every such clerk shall hold his office until the election or appointment and qualification of his successor, unless sooner removed by due process of law.

SECTION 3. When a vacancy shall occur in the office of town clerk, the person elected or appointed to fill the vacancy shall hold the office until the end of the unexpired term of the person last holding the office.

SECTION 4. Section three hundred and thirty-five of chapter eleven of the Revised Laws, and all acts and parts of acts inconsistent herewith, are hereby repealed.

SECTION 5. This act shall take effect upon its passage.

BINDING.

Increased attention has been given during the year to binding records needing expert treatment. Towns where no disposition to take action appeared have had their attention called to the statute requirement, and the binding of their records has been insisted upon.

Under the discretionary power given the commissioner, binding has been paid for from his appropriation for some of the towns where the cost would have been a burden, or where it seemed unjust to compel a small town to pay for binding the records pertaining to a large part of its former territory, now comprised in other towns.

Binding by the Emery process has been done during the year for several of the county offices, where more or less of it has before been done from time to time, and for the following forty-two towns: Athol, Barnstable, Barre, Becket, Bellingham, Bernardston, Brookline, Cohasset, Dartmouth, Douglas, Duxbury, Essex, Greenfield, Hadley, Hatfield, Holden, Hubbardston, Manchester, Middleborough, Monson, Otis, Oxford, Peru, Phillipston, Provincetown, Rochester, Royalston, Sandwich, Savoy, Sharon, Southampton, Stockbridge, Stowe, Sudbury, Sunderland, Warwick, Wendell, Wenham, Westfield, Westminster, Windsor, and Wrentham.

As an example of what can be done with mutilated records illustrations are given of the first volume of the records of Stockbridge, one representing the book in the condition when found a few years ago, and two showing pages of the record after binding in silk.

Among the records bound at considerable expense were four very dilapidated volumes of the records of the Proprietors of Rochester, containing the original lay out of lands in the territory now included in Rochester, Marion, Mattapoisett, and part of Wareham. That Rochester should bear the whole expense of binding these did not seem equitable, but as there was no way in which the cost could be divided, it was paid from the appropriation for this commission.

As the proprietors' records appropriately belong in the registries of deeds, and the State has paid for putting these in condition for preservation, it would seem advisable and proper that these be placed in the registry of deeds at Plymouth, where they can be accessible to persons interested in estates in either of the towns. About five hundred plans of lands recorded in these volumes, which will be put in form for preservation and reference, could also be placed there.



PLATE 1.—FIRST VOLUME OF THE RECORDS OF STOCKBRIDGE.

(61)

house Lot the middle of the Road to be
a Divisional Line between D Brown's Lot and
Hawthornden Lot & thence running a crooked recumbers
Lead a Little South of the Logg fence that Encloses his
field untill it comes to the South westerly corner of S field
and then turning Northerly untill it comes to D Brown's
South Line & then running by D Line to the Brook called
the pond Brook thence running over the Brook & then turn-
ing on an angle So as best to accommodate for advantage
to get up the hill & then turning to D Brown's Land again
& then running by D Line untill it comes to the now broken
path that Leads to Henderhook. Then turning on to D Brown's
Land & running as the path is now good Excepting where
it comes to be mended it may be ~~erred~~ a little for
better & thence running up the crotch of the mountain
and over it as the Indian last markt it & running now
their new mill Dam & thence running as it is markt
untill it Extends to the Culmost bounds of the Town.
The markt Trees stand all on the Northerly Side of the
Road & the Road to be Two Rod wide.

August 9th 1750 The Inhabitants of the Town being assem-
bled according to their Adjournment on 2^d Tursday of
July last past It was put to Vote whether the Town
except of the road or Town way laid ^{out} above De-
scribed & Conform the same & the Vote past in affirmative

To Elias Willard Constable for the Town of Stockbridge you
are hereby ordered forthwith to warn all the English free-
holders & other inhabitants in the Town who are qualified according
to Law to Vote in Town Affairs to meet at the School-
house in the Town on Friday 22^d of feb^r Current at two o'
Clock in the Afternoon for the Ends following. (v13)

To Jacob Naunampton Constable for the Town of Stockbridge
you are hereby ordered forthwith to warn all the Indian (P
freeholders & other inhabitants in the Town who are qualified
according to Law to Vote in Town Affairs to meet at the School-
house in the Town on Friday 22^d of feb^r Current at two o'
Clock in the Afternoon for the Ends following. (v13)

Then it's white oak then turning round to small white oak then to another white oak then to the tree from Hockfack fort thence to a white pine tree then a small oak hence to another white oak tree standing in a lot of land then to the river Mr. Sergeant adjoyning to the great pond the east side of his land is in sight of the pond then the land lays a little down ward westerly westwardly to a small red oak tree then northeasterly to a great white oak tree & then to gray oak then to a walnut tree Suppose to stand in Mr. Joseph Woodbridge land on the east side of the great pond all the trees above men-tioned are marked & stand on the easterly sides of roads this road is three rods wide.

A road between Joseph Woodbridge's wife
of Munhas Vipay Shop leading west to
the free School

1 Road or high way laid out by the Selectmen May ye
3d 1751 & confirmed by vote of the Town March 4th day
752 Beginning at the southwest corner of the meeting
house plot or square from thence running westwardly
to the meadow bank strait to the dividing line between
Mr. Pophquannohpeet & David Newnaneckauunks
lots then turning between his lots to the bridge
that leads to the free school land then croping & turn-
ing southwardly by the river so far as is con-
venient for a road and then running strait to the divide-
ing line between Mr. Joseph Woodbridge & Hennessy Moh-
& Woodbridge & the northeast corner of Mr. Hennessy land
thence continuing on Mr. Hennessy land till it comes to Jacob
Harringtons land thence running on the line between
Jacob & Mr. Woodbridge & Aaron Wauwau and William
in equal proportion till it comes to the Aaron's orchidians
then turning easterly & running on the line between the
Mr. Joseph Woodbridge & Aaron Wauwau and William
in equal proportion till it comes to the Aaron's orchidians
then turning thence running still easterly & cross-
ing Mr. Wauwau's land on the North side of his new whell fields and
thence thro' Mr. Woodbridge's land till it comes to the end
of the road & thence to the North of Grinchas Neph's shop

MISPLACED RECORDS.

The statute provides for the recovery of public records in private custody, but there are instances where certain records are held by a custodian of public records, under a supposed or doubtful right. This has occurred in some places where, at the time of a division of a town, the records were in a part of the town embraced in the new town. This has resulted in the commencing of new records in both towns at the time of division, and the retaining of the old records in the new town. In other cases, records formerly kept by a county officer at his home have drifted into a town office, and have come to be considered the town property, though properly belonging to the county.

The records of old Norfolk County are widely scattered, having apparently remained where they happened to be at the time of the dissolution of the county. By acts of the New Hampshire Legislature in 1897 that State has taken jurisdiction of all the public records of the county found in the State, and they have been placed in the State Library at Concord. These are mostly records originally kept in Portsmouth or Dover, those pertaining to matters mostly in the southern part of the county apparently having remained in Massachusetts.

One volume of these was found by the commissioner with the records of Salisbury, and contains a record of the births, marriages, and deaths in Amesbury, Exeter, Hampton, Haverhill, and Salisbury from 1670 to 1747, and a record of deeds in 1691 and 1692. This was in a very dilapidated condition and was bound in silk without expense to Salisbury, and it would seem proper that it should be with similar records in the office of the clerk of the courts at Salem.

In the office of the city clerk of Salem is a volume originally containing, according to the title-page, the births, marriages, and deaths in Salem, Lynn, Gloucester, and Wenham, returned to the clerk of the courts at Salem, from 1637 to 1714. The Wenham record has been torn out. This is one of a series of the county records and should be placed in the clerk's office. Beverly, Danvers, Lynnfield, Manchester, part of Middleton, Nahant, Peabody, Rockport, Saugus, and Swampscott were

originally in the territory covered by the record, and their citizens are entitled to find the record in the county office.

The records of Eastham to the time of the setting off of Orleans in 1797 have been kept in Orleans, having been in that part of the town at the time of division. Several of these volumes were in a dilapidated condition, and have been bound by the commissioner from his appropriation, it being unjust to require either Eastham or Orleans to bear the expense, and impossible to have it divided between those towns and Wellfleet, also interested. Under the circumstances it would seem proper that the records when bound should be deposited in the parent town, Eastham.

The records of Tyringham to the time of the setting off of Monterey in 1847 are in Monterey. Some of these need expert binding, for which Monterey would not wish to pay, and which it would be unfair to require of Tyringham unless the records were deposited there. Many of the records of Adams, prior to the setting off of North Adams in 1878, are at North Adams.

There are other instances where records are not in the town whose name they bear, and it seems advisable that there should be some legislation by which all records formerly belonging to a county or town should be transferred to their original custody.

The passage of the following act is recommended :—

AN ACT FOR TRANSFERRING CERTAIN PUBLIC RECORDS TO THEIR
ORIGINAL CUSTODY.

SECTION 1. All public records of the county of Norfolk prior to 1681, which shall be found within this Commonwealth, shall be deposited in the office of the clerk of the courts in the county of Essex.

SECTION 2. Any public records, except those mentioned in the foregoing section, deposited elsewhere than in an office in the county, city, or town to which they respectively originally belonged, shall be kept in the custody of the person having the custody of similar records in such original county, city, or town.

SECTION 3. Whoever under the provision of this act is to become the custodian of any of the records mentioned in this act shall demand the same from any person in whose possession they may be, and he shall forthwith deliver the same to him.

SECTION 4. Whoever refuses or neglects to perform any duty re-

quired of him by this act shall be punished by a fine of not more than twenty dollars.

SECTION 5. All acts or parts of acts inconsistent herewith are hereby repealed.

SECTION 6. This act shall take effect upon its passage.

COPYING.

The statute requires "fair and legible copies thereof seasonably made" whenever records are becoming worn, mutilated, or illegible, and it is a part of the duty of the commissioner to see that the statute is enforced. It is not enforced because under existing circumstances it cannot be. Persons competent to make accurate copies are very few, and a poor copy is worse than none, as the copy is usually used, and the errors are accepted as the original record.

In a few of the cities and towns, *where the clerk is reasonably sure of continuing in office*, copying is being carried on under the direction of a clerk who appreciates the value of a good copy, and is giving personal attention to it, but the custom has been for the copying to be entrusted to a person willing to do it for a stipulated price, and no further attention has been given to it.

Many copies have not been certified and have no legal weight. The result has been worthless copies and mutilated originals.

The statement that competent copyists are very few is questioned, as a good penman is generally supposed to be competent to copy, but copyists of records should possess the following qualifications, and such are few: be able to read the ancient alphabet if the records are written in that hand, and have a faculty of reading difficult writing of whatever date; understand double dating; be familiar with ancient phraseology, and technical or colloquial words; know ancient Christian names and local surnames; and, above all, have sufficient understanding of the general subject of the records to know how to solve doubts by the relation which various entries may bear to each other, and to know that any writing or marking on original records is a species of mutilation.

That copies have been very generally made by persons lack-

ing in these qualifications is best shown by specific statements. In one instance the copyist destroyed the original. Copyists have checked with ink every item copied, the check mark sometimes obliterating a faint letter or figure; entries have been crossed out after being copied; the word "copied" has been written across original entries; indistinct letters and figures have been written over to make them distinct, but really changing them; "wrong, see page — for duplicate," has been written when there was no evidence which entry was correct, yet the copy contains but one; pages or parts of pages that were difficult to read, or seemed unimportant, have been marked "not copied," but no mention of the omission appeared in the copy. (In one town the record of the names of representatives was omitted, the record of the Legislature having been deemed sufficient.)

Egregious and senseless errors have been made in the attempt to solve doubtful words, or to make sense of a sentence after a doubtful word has been wrongly copied. Failure to discover for what a wrongly spelled word was intended, and copying it as something entirely different, and omitting or substituting capitals according to modern usage, have been common errors and have utterly changed the meaning. Copying but one of the dates of a double date has made records worse than useless, legitimatizing births.

Some examples of what have been found in copies, together with puzzling words and entries in originals, with which copyists are liable to have to contend, are presented to give force to the foregoing. The original entry is first given, followed by the translation: are — heir; gine (copied give) — join; natcher — Nashua; Leietement — illegitimate; a gorned — adjourned; graniaryman — grand-jury-man; hole of the rats — whole of the rates (taxes); the aplus — Theophilus; Brer — Beriah; sale — Sally; chicken — Chickering; macarrel — McCarrell; gorg lorance — George Lawrence; Cornell Quinser — Colonel Quincy; winesenite — Wednesday night.

Serious mistakes have been made by copying as the surname the occupation of a man, which was often added as a distinguishing term, or of misreading a word, as in the following cases: . . . Clark — intended for clerk, but copied as the surname

Clark; . . . glover — copied Glover; Danill Billings Smith — Daniel Billings, "ye blacksmith" (mentioned later); . . . and Abigail Ballard ware published — copied Abigail Ballard Ware; . . . and Hannah Coles Boath of . . . — copied Hannah Coles Booth.

Illustrations without number could be presented, but the foregoing should be sufficient to establish the fact that any general copying of the records, excepting under expert supervision, would be worse than useless.

PUBLIC RECORD OFFICE.

The statute requires the commissioner to report "such recommendations and suggestions as may seem important for the safety and benefit" of the records. The recommendation that a public record office be established would be useless, it being such a radical departure from present methods, and one involving so much first cost, but as the absolute safety for, and full benefit of, the public records cannot be secured without it, the suggestion is made that some investigation be instituted to ascertain the sentiment in the cities and towns regarding the depositing of their early records, to a date to be determined, in such an office. If the prevailing sentiment were against it further pursuit of the subject would be useless; otherwise the matter might receive serious consideration.

Existing conditions are in general as follows, although some of the cities and towns are giving their records proper care. All the cities and towns now have safes or vaults. If safes they are sufficient for the more important records, but not for minor ones, nor for the files that are required to be preserved. Moreover, a safe which the commissioner finds, at the time of inspection, sufficient security for the records in the building where it then is, may almost immediately be moved into another, the burning of which would probably damage, if not destroy, the records.

If a vault has been built either a part or all of the records are in it, according to its location. If located conveniently for the clerk and most of the town officers it will contain all the records, otherwise the records are in various places. If the clerk has office hours, and the care of the vault, it is opened

daily, and is therefore dry, but as a rule the vaults are not opened oftener than weekly, when the selectmen meet, and in some towns they are never opened except when something therein is wanted, or more likely something is to be stored there. The consequence is that most of the vaults are damp, and in many the mould is thick and bindings are dropping off. In many, the Massachusetts Term Reports and the series of Public Documents have been stored, when they absorb moisture, making it impossible to dry the vaults. (The word "stored" is used advisedly, as they are usually piled in without regard to arrangement, and it is universal testimony that they are never consulted.) The suggestion is always made that they be taken out. Trunks and chests filled with ancient files, and sometimes containing records supposed to be lost, are found in the vaults, the papers in the bottoms having decayed from dampness.

The earliest volumes of the records contain everything which was to be made a matter of record,—town meetings, births, marriages, deaths, ear marks, valuation lists, stray beasts, etc. These are not indexed, making them of little value for reference in their present condition. If copies have been made, they are, as has been more fully set forth, more than likely to be inaccurate. Bindings are poor and rapidly growing worse.

The records are not, as required by the statute, open to the public and convenient for examination and reference. The clerks are not properly compensated by the town for the care of them, some receiving nothing, some charging a rate by the day or hour for the time spent in making the record, and some having a salary, but none but the very few who, usually holding some other town office, keep office hours, are paid enough to make it reasonable to expect them to take time from their main occupations to give to persons desiring to consult the records. The town will not vote a sufficient amount to maintain a town office, the citizens accommodating themselves to circumstances when having occasion to consult the clerks or the record, and not deeming it necessary or equitable to pay for the accommodation of others. Perhaps it is nearer the fact to say that the citizens know and care little about the records,

but know that the clerk never has been paid but a paltry sum under the lax system which has prevailed, and do not know that every year more and more is required of him for which he should be paid.

No fees are prescribed or can be demanded for consulting the records, which, however, must be done under the supervision of the clerk, who is liable to a penalty for allowing it to be done otherwise. Reasonable fees for copies can be charged, but the time spent in searching unindexed, mutilated, and almost illegible records in order to make copies must be so long that an estimate of the cost discourages the inquirer, who makes his own search, taking the clerk's time without compensation; or if a copy is sent with a reasonable charge no fee is remitted.

In a public record office all these conditions would be changed. The building would be absolutely fireproof, and under proper rules fire within would be an impossibility. Decay of the records would cease, and all mutilated ones would be bound on the premises. Records and papers would be assorted and classified and indexes made. Copying would be done by experts and properly attested, and printing could be properly supervised.

With this accomplished the records would for the first time be available, and a particular record pertaining to any person, or any matter, in any part of the State, could be seen, or an attested copy easily procured for a small fee. Long journeys to find what does not exist, or is recorded elsewhere, need no longer be made.

A large majority of the people have little appreciation of the value of the records, thinking their protection is for the satisfaction of persons interested in genealogy. As it has seemed necessary to require since 1639 a record to be kept of every birth, marriage, and death, it would seem equally necessary that the record be preserved. But granting that these records are only for the gratification of a few, there are matters of all sorts recorded in the records of the towns which affect the rights of individuals, corporations, towns, cities, counties, and the State. Town boundaries; locations of highways; allotments of land to proprietors which have descended to heirs, without deeding or record of transfer; rights of way; riparian

rights; parish rights, and duties to the town; pauper settlements; and many other matters recorded are subjects of costly litigation, which could be easily and amicably settled.

The cost to the towns and the State of deciding pauper settlements is a considerable annual sum. Towns attempt to fix the support of paupers on each other, or combine to fix it upon the State. Much of this cost could be saved if the records were accessible and indexed, as the same quarrels have been fought out with other boards of overseers, and settlements legally established. Under present conditions no one knows whether a record exists or where it can be found, but if, acting on assumption, search in the dilapidated, unindexed records is attempted, it is long and expensive.

Some plan for relieving the counties, cities, and towns of the accumulation of papers must be formulated before many years, but the destruction of papers should be carefully supervised. In the towns there are many important reports among the files, often accompanied with plans, which are only briefly alluded to in the records, and constitute the only record. There are also papers not actually part of the files, and which the town is not required to keep, part of which are of general interest and would contribute to the history of the Commonwealth. These could be properly examined in a public record office, and either their destruction ordered, or preservation secured, under some such system as prevails in the English Public Record Office.

A national public record office has been advised by the secretaries of some of the departments at Washington, and has the approval of leading members of Congress. The suggestion is each year more and more frequently made, both in public and to the commissioner, that such an office be established in this State, otherwise the subject would not have been treated at such length.

REPORTS OF THE COMMISSIONER.

An increase of five hundred copies in the number of the annual reports is recommended. In view of the apparently proper desire to reduce the amount of public printing this recommendation is made with some hesitancy, but the increased number is necessary to supply the demand of many of the re-

cording officers, and to furnish copies to others who would be much better informed in regard to the law and their duties if they had them at hand.

PRINTING.

The following volumes of town records have been published during the year: —

CAMBRIDGE. The Records of the Town of Cambridge (formerly Newtowne), Massachusetts, 1630–1703. The Records of the Town Meeting, and of the Selectmen, comprising all of the First Volume of Records, and being Volume II. of the printed records of the town. Printed by order of the city council under the direction of the city clerk. Cambridge, 1901.

FITCHBURG. The Old Records of the Town of Fitchburg Massachusetts. A copy of a portion of the records contained in Volume III., pages 1 to 270, inclusive, being Volume Four of the printed records of the town. Compiled by Walter A. Davis, City Clerk. Fitchburg, 1901.

WATERTOWN. Watertown Records, comprising the Third Book of Town Proceedings and the Second Book of Births, Marriages, and Deaths to the end of 1737, also Plan and Register of Burials in Arlington Street Burying Ground. Prepared for publication by the Historical Society. Watertown, Mass., 1900.

WESTON. Town of Weston. Births, Deaths, and Marriages, 1707–1850. 1703 — Gravestones — 1900. Church Records, 1709–1825. Appendix and Addenda, Cent Society, Gleanings from the Town Files, Bits of Genealogy, Errors, Indexes, etc. Edited by Mary Frances Peirce. Boston, 1901.

ROBERT T. SWAN,
Commissioner.

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